

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
Civil Action No.: 1:25-cv-00481-UA-JEP**

PHILIP SCHWAB,  
individually and on behalf of those  
similarly situated,

Plaintiff,

v.

RESEARCH TRIANGLE INSTITUTE  
d/b/a RTI INTERNATIONAL,

Defendant.

**DEFENDANT'S MOTION TO  
DISMISS OR STRIKE CLASS  
ACTION ALLEGATIONS**

Pursuant to Federal Rules of Civil Procedure 12(b)(6), 12(f), and 23(d)(1)(D), Defendant Research Triangle Institute d/b/a RTI International ("RTI") respectfully moves the Court to dismiss Plaintiff Philip Schwab's complaint with prejudice or, in the alternative, to strike the complaint's class action allegations. In support of this motion, RTI respectfully shows the Court the following:

1. Plaintiff Philip Schwab filed his complaint on June 17, 2025, putatively asserting a single cause of action under the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101 *et seq.* (the "WARN Act") on behalf of himself and a putative class of terminated employees. In his complaint, Schwab alleges that he and other terminated employees were

entitled to sixty days' advance written notice of their terminations under the WARN Act and that RTI failed to provide such notice.

2. Schwab's complaint should be dismissed because it fails to state a claim upon which relief can be granted. Namely, the complaint fails to allege facts showing a required element of a WARN Act claim—that RTI's terminations constituted a "plant closing" or "mass layoff" under the statute. A plant closing or mass layoff under the WARN Act must affect employees at a "single site of employment," but Schwab does not identify such a single site of employment at which he or any other terminated employee worked. As a result, Schwab fails to state a claim for violation of the WARN Act.

3. Indeed, Schwab cannot state a WARN Act claim because, as the complaint indicates, he was a remote employee. Accordingly, his single site of employment was his home or another remote work location from which he worked in Kentucky. Schwab does not and cannot allege that any other RTI employee worked at that single site of employment and therefore cannot allege the numerical thresholds needed to establish a mass layoff or plant closing at his single site of employment. *Meson v. GATX Tech. Servs. Corp.*, 507 F.3d 803, 808 (4th Cir. 2007).

4. Schwab's failure and inability to allege that a mass layoff occurred at the single site of employment at which he worked is an incurable

defect in the complaint and the Court should dismiss the complaint with prejudice. At a minimum, however, the Court should strike the class action allegations in the complaint because they fail to show that the putative class could meet the Rule 23 requirements for certification.

5. Pursuant to the Court's Standing Order 40, counsel for RTI conferred with counsel for Schwab via teleconference on July 29, 2025 regarding this motion to dismiss to determine whether there are issues that could be resolved or narrowed by the filing of an amended complaint. The parties could not come to an agreement regarding whether any such issues could be resolved or narrowed through an amended complaint.

6. In further support of this motion, RTI files concurrently a Memorandum in Support of Defendant's Motion to Dismiss or Strike Class Action Allegations.

**WHEREFORE**, for the reasons set forth above and in RTI's accompanying memorandum, RTI respectfully requests that the Court grant its motion to dismiss and dismiss Plaintiff's complaint with prejudice or, alternatively, strike the complaint's class action allegations, and award RTI any other relief that the Court deems just and proper.

This 4th day of August, 2025.

/s/ Mark A. Hiller  
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